# CHAPTER 1450 Affordable Dwelling Units

EDITOR'S NOTE: This chapter, previously a codification of Ordinance 95-09, passed October 4, 1995, was repealed in its entirety and re-enacted by Ordinance 99-07, passed June 16, 1999.

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#### **CROSS REFERENCES**

Loudoun County Board of Supervisors - see ADM. Ch. 210 License tax for rental of dwellings - see B.R. & T. 840.22 Virginia Uniform Statewide Building Code - see B. & H. Ch. 1410

#### 1450.01 PURPOSE OF AFFORDABLE DWELLING UNIT PROGRAM.

The Affordable Dwelling Unit Program is established to assist in the provision of housing to persons of moderate income by promoting the development of a full range of housing choices and by requiring the construction and continued existence of dwelling units which are affordable for purchase by households whose income is greater than thirty percent and less than seventy percent, and affordable for rental by households whose income is greater than thirty percent and less than fifty percent, of the median income for the Washington Primary Metropolitan Statistical Area (PMSA). "Affordable dwelling units" shall be defined as those units for which the rental and/or sale price is regulated, as well as existing homes purchased through the use of Downpayment/Closing Cost Assistance Funds of Loudoun County Housing Trust, pursuant to the provisions contained in this chapter, as adopted by the Loudoun County Board of Supervisors. This chapter is for the administration of the Loudoun County Affordable Dwelling Unit Program. The regulations for such program are set forth in Article VII of the Loudoun County Zoning Ordinance. (Ord. 99-07. Passed 6-16-99.)

(Due to revision of the preceding chapters, the next page of text is page 29)

## 1450.02 DEFINITIONS.

- (a) The terms used herein shall have the same meaning ascribed to them in the Loudoun County Zoning Ordinance.
- (b) As used in this chapter, "qualified nonprofit" means a nonprofit corporation whose purpose is to further the provision of affordable housing in Loudoun County, which has Internal Revenue Code 501(C)(3) status, adequate cash flow/reserves to purchase property, expertise in property management, and is designated by the Loudoun County Board of Supervisors.

(Ord. 99-07. Passed 6-16-99.)

# 1450.03 ADMINISTRATION OF PROGRAM; AFFORDABLE DWELLING UNIT ADVISORY BOARD.

- (a) The sale and rental of affordable dwelling units shall be regulated by the Loudoun County Board of Supervisors or by its designee. The Loudoun County Board of Supervisors shall appoint an Affordable Dwelling Unit Advisory Board (ADUAB) which shall develop and approve general specifications for prototypical single-family detached, single-family attached and multifamily affordable dwelling units, shall determine the construction costs of the prototypical units on a semi-annual basis, as determined from generally accepted construction cost indices, and shall perform those other duties established in Section 1450.10. Semi-annual for-sale prices, annual income eligibility and rental price revisions and forms will be approved by the ADUAB. Individuals aggrieved by the ADUAB decisions may appeal such decisions within thirty days to the Loudoun County Board of Supervisors.
- (b) In the administration of the Affordable Dwelling Unit Program, the design and construction specifications shall be revised and approved when necessary by the ADUAB and be structured so that affordable dwelling units offered for sale shall be affordable to households whose income exceeds thirty percent, but does not exceed either sixty-five percent of median household income for multifamily units or seventy percent of median household income for single-family attached and single-family detached units. Affordable dwelling units offered for rent shall be affordable to households whose income exceeds thirty percent, but does not exceed fifty percent, of the median household income. Median household income shall be as determined for the Washington Primary Metropolitan Statistical Area (PMSA) as established by the Bureau of the Census. (Ord. 99-07. Passed 6-16-99.)

# 1450.04 SALES OF UNITS; PURCHASE OPTION PERIODS; PRIORITY FOR PURCHASE.

(a) The sale of affordable dwelling units shall be regulated by the Loudoun County Board of Supervisors or its designee. The Loudoun County Board of Supervisors shall, upon the recommendation of the Affordable Dwelling Unit Advisory Board (ADUAB) adopt reasonable rules and procedures to assist in the regulation and monitoring of the sale and resale of affordable dwelling units, which shall include giving priority to Loudoun County residents and persons who work in the County.

- (b) The Loudoun County Board of Supervisors, or its designee, which may include qualified nonprofits, shall have the right of first refusal on a project-by-project basis to purchase up to one-third of the for-sale affordable dwelling units within a development for a ninety-day purchase option period. The following requirements apply to such period:
- (1) The ninety-day purchase option period shall begin on the date of receipt of written notification from the owner, sent by registered or certified mail, advising the County, or its designee, that particular affordable dwelling units are, or will be, available for purchase.
- (2) Such written notice may be sent by the owner at any time after the issuance of a zoning permit for the affordable dwelling unit which is being offered for sale.
  - (3) The written notice shall state the following information:
    - A. The number of bedrooms;
    - B. Floor area (in square feet);
    - C. Amenities;
    - D. The target date for affordable dwelling unit availability;
- E. The number of affordable dwelling units available and their location within the development;
- F. The address of each affordable dwelling unit, which shall include the tax map and parcel number or Property Identification Number;
  - G. Any type of special financing which may be available; and
- H. A copy of the approved subdivision and final site plan for the development in which the affordable dwelling units are located.
- (4) If the County or its designee elects to purchase a particular affordable dwelling unit, the County or its designee shall so notify the owner, in writing, within the ninety-day purchase option period. Failure to so notify the owner shall be deemed a refusal of purchase of the affordable dwelling unit.
- (5) The closing shall occur within thirty days from the end of the respective ninety-day period, provided an occupancy permit has been issued for the affordable dwelling unit, or thirty days after the issuance of an occupancy permit, whichever is later.
- (c) The remaining two-thirds of the for-sale affordable dwelling units within a development shall be offered for sale exclusively for a ninety-day purchase option period to persons who meet the income eligibility criteria established by the County or its designee and who have been issued a Certificate of Qualification by the Loudoun County Office of Housing Services.
- (1) The ninety-day purchase option period shall begin on the date the County or its designee receives written notification from the owner, sent by registered or certified mail, advising the County or its designee that a particular affordable dwelling unit is or will be available for purchase.
- (2) Such written notice may be sent by the owner at any time after the issuance of a zoning permit for the affordable dwelling unit.

- (3) Such written notice shall state the following information:
  - A. The number of bedrooms;
  - B. Floor area (in square feet);
  - C. Amenities;
  - D. The target date for affordable dwelling unit availability;
- E. The number of affordable dwelling units available and their location within the development;
- F. The address of each affordable dwelling unit, which shall include the tax map and parcel number;
  - G. Any type of special financing which may be available; and
- H. A copy of the approved subdivision and final site plan for the development in which the affordable dwelling units are located.
- (d) After the expiration of the ninety-day purchase option period referenced in subsections (b) and (c) hereof, affordable dwelling units not sold, or not under contract to be sold, shall be offered for sale to County qualified and designated nonprofits.
- (1) The qualified nonprofits shall have a thirty-day purchase option period within which to commit to purchase the affordable dwelling units. This thirty-day period shall begin at the expiration of the ninety-day purchase option period explained in subsections (b) and (c) hereof, and on the date of receipt of written notification from the owner, sent by registered or certified mail, advising that particular affordable dwelling units are or will be available for purchase.
  - (2) The written notice shall include the following information:
    - A. The number of bedrooms;
    - B. Floor area (in square feet);
    - C. Amenities;
    - D. The target date for affordable dwelling unit availability;
- E. The number of affordable dwelling units and their location within the development;
- F. The address of each affordable dwelling unit, which shall include the tax map and parcel number;
  - G. Any type of special financing available; and
- H. A copy of the approved subdivision and final site plan for the development in which the affordable dwelling units are located.
- (3) Such written notice may be sent by the owner any time after the expiration of the ninety-day purchase option period referenced in subsections (b) and (c) hereof. If a qualified nonprofit elects to purchase a particular affordable dwelling unit, it shall so notify the owner in writing.
- (e) After the expiration of the time period(s) referenced in subsections (b), (c) and (d) hereof, affordable dwelling units which are not sold can be sold as market rate units by the builder, provided that the difference between the actual sales price and the ADU Program sales price shall be divided equally between the seller and the County of Loudoun Housing Trust.

(Ord. 99-07. Passed 6-16-99.)

#### 1450.05 RENTAL OF UNITS.

- (a) The rental of affordable dwelling units shall be regulated by the Loudoun County Board of Supervisors or its designee. The Loudoun County Board of Supervisors shall, upon recommendation of the Affordable Dwelling Unit Advisory Board (ADUAB), adopt reasonable rules and procedures to assist in the regulation and monitoring of the rental of affordable dwelling units, which shall include giving priority to Loudoun County residents and to persons who work in the County.
- (b) For the initial rental of affordable dwelling units within a single-family detached, a single-family attached or a multifamily dwelling unit development, written notification from the owner shall be sent by registered or certified mail advising the County or its designee that particular affordable dwelling units are or will be available to rent.
- (1) Such written notice may be sent by the owner at any time after the issuance of a zoning permit for the affordable dwelling unit which is being offered for rent.
  - (2) The written notice shall include the following information:
    - A. The number of bedrooms;
    - B. Floor area (in square feet);
    - C. Amenities:
    - D. The target date for affordable dwelling unit availability;
- E. The number of affordable dwelling units available and their location within the development;
- F. The addresses of the affordable dwelling units, which shall include the tax map and parcel number of the development; and
- G. A copy of the approved site plan or record plat for the development in which the affordable dwelling units are located.
- (c) All affordable dwelling units available for rent shall be leased for a minimum six month period, with a maximum term of lease of twelve months, to tenants who meet the income eligibility criteria established by the County or its designee and who have been issued a Certificate of Qualification by Loudoun County Housing Services. Following the initial lease term, subsequent leases may be done on an annual, bi-annual or monthly basis.
- (1) The lease agreements for such units shall include conditions which require the tenant to occupy the unit as his or her domicile, which prohibit the subleasing of the unit, which require continued compliance with the income eligibility criteria established by the County or its designee and which require the tenant to annually verify his or her annual income and such other facts that the owner/landlord may require in order to ensure that the tenant continues to meet the income eligibility criteria established by the County or its designee.
- (2) Tenants shall continue to meet the income eligibility criteria established by the County, or its designee, in order to continue to occupy the affordable dwelling unit. Tenants who no longer meet the income eligibility criteria may continue to occupy an affordable dwelling unit until the end of the lease term.

- (3) Income eligibility of tenants of rental affordable dwelling units shall be verified prior to lease renewal.
- (4) The owner/landlord of a development containing rental affordable dwelling units shall provide the County or its designee with information regarding the occupancy of rental affordable dwelling units on a quarterly basis, at a minimum. Such information shall consist of a statement, verified under oath, which certifies the following as of the first of such month:
- A. The address and name of the development and the name of the owner/landlord:
- B. The number of rental affordable dwelling units, by bedroom count, which are vacant;
- C. The number of rental affordable dwelling units, by bedroom count, which are leased. For each such unit, the statement shall contain the following information:
  - 1. The unit address and bedroom count;
  - 2. The tenant's name and household size;
  - 3. The effective date of the lease;
  - 4. The tenant's (household) income as of the date

of the lease;

- 5. The current monthly rent.
- D. A statement that to the best of the owner/landlord's information and belief, the tenants who lease and occupy rental affordable dwelling units meet the income eligibility criteria established by the County, or its designee, except those tenants eligible to remain in their rental affordable dwelling units, as specified in Section 1450.09.
- (5) The owner/landlord shall provide the County or its designee with a copy of each new or revised annual tenant income verification obtained from the tenants of rental affordable dwelling units pursuant to paragraph (c)(4)D. hereof.

(Ord. 99-07. Passed 6-16-99.)

## 1450.06 SALES PRICES.

- (a) The Affordable Dwelling Unit Advisory Board (ADUAB) shall initially and semiannually thereafter establish the County-wide sales prices for affordable dwelling units. Adjustments to the affordable dwelling unit sales prices shall:
  - (1) Account for fluctuations in the market; and
- (2) Be adjusted according to the percentage change in the various cost elements as indicated by the Means Construction Cost Index, or other equivalent index should the Means Index be discontinued, or as may be selected by the ADUAB upon approval of the Loudoun County Board of Supervisors.
- (b) County-wide sales prices shall be based upon a determination of all ordinary, necessary and reasonable hard and soft costs required to construct and market the affordable dwelling units by private industry in the immediate area, including the area's current general market and economic conditions.

- (1) Sales prices shall include, among other costs, provisions for builder-paid permanent mortgage placement costs, closing costs, except for pre-paid expenses at settlement, and other applicable costs resulting from proffers given and accepted through a rezoning approval.
- (2) Sales prices shall not include the cost of land, marketing expenses and extra finishes and amenities exceeding ten percent of the total unit construction cost, including landscaping, unless otherwise approved by the Affordable Dwelling Unit Advisory Board.
- (3) A 1.5 percent sales commission/finders fee to be paid to a real estate agent who secures a purchaser of an affordable dwelling unit.
- (4) In the event that the developer or builder is responsible for conducting a lottery and qualifying potential purchasers for affordable units within a development, such sales prices shall include a flat fee to cover such costs, to be determined by the Affordable Dwelling Unit Advisory Board.
- (c) The sales prices of affordable dwelling units within a development shall be established such that the owner shall not suffer economic loss as a result of providing the required affordable dwelling units. Economic loss shall result when the owner of a development fails to recoup the cost of construction, including site development and infrastructure costs, and those allowances as may be determined by the Affordable Dwelling Unit Advisory Board upon the sale of an affordable dwelling unit, exclusive of the cost of land acquisition and those costs voluntarily incurred. (Ord. 99-07. Passed 6-16-99.)

#### 1450.07 RENTAL PRICES.

- (a) The Affordable Dwelling Unit Advisory Board (ADUAB) shall initially and semiannually thereafter establish County-wide rental affordable dwelling unit prices which will take into account the geographical location of the units within the County and the age and condition of the development, as appropriate. Adjustments to the affordable dwelling unit rental prices shall be made according to the change in the Washington Primary Metropolitan Statistical Area (PMSA) median income as published by the Department of Housing and Urban Development and/or such other indices that reflect the cost of rental housing in Loudoun County as selected by the ADUAB.
- (b) County-wide rental prices shall be based upon a determination of all ordinary, necessary and reasonable costs required to construct and market the required number of rental affordable dwelling units by private industry in the area, including the area's current general market and economic conditions. The process for establishing rental prices will be determined by the ADUAB. The ADUAB will determine and recommend those costs to be included within the rental price of a rental affordable dwelling unit and those costs to be excluded from the rental price of a rental affordable dwelling unit. In establishing rental prices, consideration shall be given to reasonable and customary allowances in the rental industry for construction, financing and operating costs per unit.
- (c) Rental prices for affordable dwelling units shall be established such that the owner/landlord shall not suffer economic loss as a result of providing rental affordable dwelling units. (Ord. 99-07. Passed 6-16-99.)

## 1450.08 PRICES FOLLOWING INITIAL SALE OR RENTAL.

- (a) For-Sale Affordable Dwelling Units.
  - (1) The prices for subsequent resales of for-sale affordable dwelling units shall be controlled for a period of fifteen years after the initial sale transaction for the respective affordable dwelling unit. At the time of the initial sale of an individual affordable dwelling unit, the owner shall provide in the sales contract and shall record, with the deed for each affordable unit sold, a covenant running with the land in favor of the County which expressly provides all of the following:
    - A. The affordable dwelling unit may not be resold during the fifteen-year control period for an amount that exceeds the limits set by the Affordable Dwelling Unit Advisory Board (ADUAB) pursuant to paragraph (a)(3) hereof.
    - B. Each time the unit may be offered for resale, it must first be offered exclusively through the County or its designee to persons who meet the income eligibility criteria established by the County and who have been issued a Certificate of Qualification by the Loudoun County Office of Housing Services for a sixty-day period, with an additional thirty days allowed for settlement, pursuant to paragraph (a)(2) hereof.
    - C. The unit is subject to the provisions of the Affordable Dwelling Unit Program, as set forth in the Loudoun County Zoning Ordinance.
    - D. The covenant shall be senior to all instruments securing permanent financing and shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.
    - E. The covenant shall state that any and all financing documents shall require the lender to provide to the County or its designee written notice of any delinquency or other event of default under a mortgage. The County or its designee shall have the right for a sixty-day period to cure such a default, although the County shall have no obligation to cure the default.
    - F. The total aggregate amount of principal and accrued interest for all financing secured by an ADU shall not exceed the owner's purchase price (as adjusted in accord with Section 1450.08(a)(3), as amended). Any financing in excess of the owner's purchase price (as adjusted in accord with Section 1450.08(a)(3), as amended) shall not be secured by any interest in the applicable ADU.
  - (2) For the first sixty days that individual affordable dwelling units are offered for resale, the units shall first be offered exclusively through the County or its designee to persons who meet the income eligibility criteria established by the County and who have been issued a Certificate of Qualification by Loudoun County Housing Services. The sixty-day resale period shall begin upon County receipt of written notice, sent by registered or certified mail, from the owner that an affordable dwelling unit is available for resale. The written notice shall include the address of the affordable dwelling unit and shall include the tax map and parcel number or Property Identification Number.

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- A. If, during the sixty-day period, no one holding a Certificate of Qualification has committed to purchase the affordable dwelling unit offered for resale, then the County or its designee shall have the option, for the next thirty days, to acquire the unit, with an additional thirty-day period allowed for settlement if the option is exercised.
- B. Upon the expiration of the ninety-day period, the unit may be offered for sale to members of the general public at fair market value, provided that the difference between the actual sales price and that price allowed under the provisions of paragraph (a)(3) hereof shall be divided equally between the seller and the County of Loudoun Housing Trust.
- (3) Units offered for sale during the fifteen-year control period shall not be offered for a price greater than the original selling price plus the following:
  - A. A percentage of the unit's original selling price equal to the increase in the Consumer Price Index-For All Urban Consumers;
  - B. The current fair market value of those home improvements, as determined to be eligible to be added to the selling price by the ADUAB, made to the unit between the date of original sale and the date of resale;
  - C. An allowance for payment of closing costs, on behalf of the subsequent purchaser which shall be paid by the seller; and
  - D. An allowance for the payment of a 1.5 percent sales commission/finders fee that is paid to a real estate agent who secures a purchaser of an affordable dwelling unit.
- (4) After the expiration of the fifteen-year control period, but prior to the expiration of fifty years after initial sale of the unit, the owner of an affordable dwelling unit may offer the unit for sale at fair market value, provided that the difference between the actual sale price and that price allowed for under the provisions of paragraph (a)(3) hereof shall be divided equally between the seller and the County of Loudoun Housing Trust Fund.
- (5) After the expiration of the fifteen-year control period, the County or its designee shall have a first right of refusal to acquire, at fair market value, each individual affordable dwelling unit. The current owner of each such unit shall provide the County or its designee with written notification sent, by registered or certified mail, that the unit is for sale. If the County or its designee elects to purchase such unit, the County or its designee shall so notify the owner in writing within thirty days of receipt of the written notification from the owner, and the all-cash closing shall occur within sixty days thereafter.
- (6) Any and all financing documents shall provide that, in the event of default and foreclosure of projects with units subject to the requirements of this chapter that are comprised of for-sale affordable dwelling units, the lender shall give written notice to the County or its designee of the foreclosure sale at least thirty days prior thereto, and the County or its designee shall have the right to cure the default, but shall have no duty or obligation to do so.

- (b) Rental Affordable Dwelling Units.
- (1) The prices for subsequent re-rentals shall be controlled for a period of twenty years after the initial rental transaction for the respective rental affordable dwelling unit. Prior to approval of a record plat for single family dwelling lots containing affordable dwelling units or construction plans and profiles for single-family attached lots containing affordable dwelling units or site plans for multifamily buildings containing affordable dwelling units, the owner shall record a covenant, running with the land, in favor of the County or its designee which covenant provides that for twenty years from the date of the issuance of the first occupancy permit for the rental affordable dwelling units required under this chapter, which date shall be specified in the covenant:
- A. No such unit may be rented for an amount which exceeds the limits set by the ADUAB, pursuant to Section 1450.07.
- B. Each time one of the rental affordable dwelling units is offered for re-rental, it must be offered exclusively through the County or its designee to persons who meet the income eligibility criteria established by the County and who have been issued a Certificate of Qualification by Loudoun County Housing Services, pursuant to this section.
- C. The unit is subject to the provisions of the Affordable Dwelling Unit Program, as set forth in the Loudoun County Zoning Ordinance.
- D. The covenant shall be binding upon all assignees, mortgagees, purchasers and other successors in interest.
- (2) Rentals subsequent to the initial rental during the twenty-year control period shall not exceed the rental rate established by the ADUAB.
- (3) Any and all financing documents shall provide that, in the event of default and foreclosure of projects and units subject to the requirements of this chapter that are comprised of rental affordable dwelling units, the lender shall give written notice to the County or its designee of the foreclosure sale at least thirty (30) days prior thereto. The County or its designee shall have the right to cure the default, but shall have no duty or obligation to do so.
- (4) Notwithstanding the above, for multifamily dwelling re-rentals, all of the relevant provisions of this chapter shall apply for the twenty-year control period. (Ord. 99-07. Passed 6-16-99.)
- 1450.09 ELIGIBILITY REQUIREMENTS; AUTHORITY OF OFFICE OF HOUSING SERVICES; PENALTY.
- (a) Before an individual may purchase an affordable dwelling unit, he or she must obtain a Certificate of Qualification from Loudoun County Housing Services. Before issuing a Certificate of Qualification, Loudoun County Housing Services shall determine that the applicant meets the income eligibility criteria established by the County or its designee for affordable income ranges, pursuant to Section 1450.03.

- (b) Before an individual may lease a rental affordable dwelling unit, he or she must meet the income eligibility criteria established by the Affordable Dwelling Unit Advisory Board (ADUAB) for affordable income ranges, pursuant to Section 1450.03, and must receive a Certificate of Qualification from Loudoun County Housing Services. The owner/landlord shall be responsible for verifying that a tenant meets and continues to meet the income eligibility criteria.
- (c) Except in cases where a purchaser or tenant is transferred because of U.S. military or foreign service temporary tours of duty, hardship tours, or in time of war, purchasers or tenants of affordable dwelling units must occupy the units as their primary domicile and must provide an executed affidavit on an annual basis certifying their continuing occupancy of the units. Owners of for-sale affordable dwelling units shall forward such affidavits to the County or its designee on or before June 1 of each year that they own the unit. Leases for rental affordable dwelling units shall contain a provision requiring tenants to provide such affidavits to the owner/landlord sixty days prior to the expiration of the lease. Units purchased by the County, or its designated nonprofit, pursuant to Section 1450.04(b) and (d), shall remain as for-sale units and shall be owner occupied.
- (1) Except for circumstances referenced in subsection (e) hereof, it shall be a civil violation of this chapter for someone to sell an affordable dwelling unit to an individual who has not been issued a Certificate of Qualification by Loudoun County Housing Services, subject to a civil penalty, pursuant to Section 6-500 of the Loudoun County Zoning Ordinance.
- (2) Except as provided for in subsection (e) below, it shall be a civil violation of this chapter for someone to rent, or continue to rent, an affordable dwelling rental unit to an individual who has not been issued a Certificate of Qualification by Loudoun County Housing Services.
- (3) The legal recourse for the County for a violation of paragraph (c)(2) hereof shall be a civil penalty against the owner/landlord, pursuant to Section 6-500 of the Loudoun County Zoning Ordinance.
- (4) In the event the tenant of a rental affordable dwelling unit fails to provide his or her owner/landlord with an executed affidavit, as required in this subsection, within thirty days of a written request for such affidavit, then the lease shall automatically terminate and become null and void, and the occupant must vacate the unit within thirty days of written notice to terminate from the owner/landlord.
- (d) In the event a tenant of a rental affordable dwelling unit no longer meets the income eligibility criteria established by the County or its designee as a result of increased income or any other factor, then the tenant must vacate the unit at the end of the lease term.
- (e) In the event that a tenant or owner of an affordable unit has not been issued a Certificate of Qualification within sixty days of County acceptance of an executed affidavit, for review for compliance with the eligibility criteria for a Certificate of Qualification, due to an error on the County's part, then paragraphs (c)(1) and (2) hereof shall not apply.

(f) Notwithstanding the provisions of paragraph (c)(4) and subsection (d) hereof, if the owner/landlord shall immediately designate an alternative comparable unit as a rental affordable dwelling unit to be leased under the controlled rental price and requirements of this chapter, then the tenant of such unit referenced in paragraph (c)(4) and subsection (d) hereof may continue to lease such unit at the fair market rent. (Ord. 99-07. Passed 6-16-99.)

#### 1450.10 AFFORDABLE DWELLING UNIT ADVISORY BOARD.

- (a) The Affordable Dwelling Unit Advisory Board (ADUAB) shall consist of nine members appointed by the Board of Supervisors. Members shall be qualified as follows:
- (1) Two members shall be either civil engineers and/or land surveyors and/or architects, each of whom shall be registered or certified with the relevant agency of the Commonwealth, or planners, all of whom shall have extensive experience in practice in Loudoun County.
- (2) One member shall be a representative of a lending institution which finances residential development in Loudoun County.
  - (3) Four members shall consist of:
    - A. A representative from the Board of Supervisors or its designee;
- B. A residential builder or developer with extensive experience in producing single-family detached and attached dwelling units;
- C. A residential builder or developer with extensive experience in producing multifamily dwelling units;
- D. A representative from the Loudoun County Department of Planning.
- (4) One member shall be a representative of a qualified nonprofit housing group which provides services in Loudoun County, if one exists.
  - (5) One member shall be a real estate agent.
  - (6) One member shall be a program participant.
- (7) One member shall be a member of the public at-large who does not qualify to fill one of the membership positions contained in paragraphs (a)(1) to (4) hereof.
- (8) Of the above described membership, at least five members shall be citizens of Loudoun County and at least four members shall be employed in the private sector.
- (b) Each member of the ADUAB shall be appointed to serve a four-year term. Terms shall be staggered such that the initially-constituted Affordable Dwelling Unit Advisory Board shall consist of three members appointed to four-year terms, three members appointed to three-year terms and three members appointed to two-year terms.
- (c) The ADUAB shall elect its Chairperson and Vice Chairperson for a term of one year. The Board may adopt rules and procedures for the formulation of a recommendation regarding the amounts and terms of sale and rental prices of affordable dwelling units, the procedures to be followed by an applicant seeking a modification of the requirements of the Affordable Dwelling Unit Program, the criteria for qualifying a nonprofit, guidelines for establishing cash equivalent contributions for modifications of the Affordable Dwelling Unit Program, and fees to be included in sales prices for developer costs to conduct a lottery and to qualify potential purchasers of affordable dwelling units.

- (d) The ADUAB shall establish the amount and terms of all sales and rental prices of affordable units. The ADUAB may appoint a subcommittee of local builders and construction experts to assist it in recommending the costs of the prototypical single-family detached, single-family attached and multifamily affordable units.
- (e) The ADUAB shall be authorized to hear and make recommendations on requests for modifications of the requirements of the Affordable Dwelling Unit Program, as set forth in Article VII of the Loudoun County Zoning Ordinance. The ADUAB shall not have the authority to hear requests for modifications of affordable dwelling unit sales or rental prices, or unit specifications established by the County or its designee.
- (f) Any recommendation by the ADUAB shall require the affirmative vote of a majority of those members present. A quorum must be present in order for the ADUAB to make a recommendation. A quorum shall consist of no less than five members. (Ord. 99-07. Passed 6-16-99.)